

REMARKS

Claims 1-31 are pending in this application.

Claims 1-4, 7, 10-20, 22-26 and 29 are rejected. Claims 5, 6, 8, 9, 21, 27, 28, 30 and 31 are objected to.

Claims 1-4, 10-20 and 23-26

Reconsideration is respectfully requested of the rejections of claims 1-4, 10-20 and 23-26 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,757,038 to Itoh et al. ("Itoh").

Applicant notes that Examiner uses Itoh as a 102(e) reference against the presently claimed invention. However, the appropriate §102(e) date is the U.S. filing date of September 5, 2003 since the reference did not result or claim the benefit of an international application that designated the United States and was not published under PCT Article 21(2) in English. Instead, Itoh claims priority to a Japanese application, the filing date of which cannot be used for 102(e) purposes. See M.P.E.P. § 706.02(f)(1).

Applicant notes that the U.S. filing date of Itoh (September 5, 2003) is after the claimed foreign priority date (December 2, 2002) of the present application. Applicant also notes that, pursuant to sections 2136.03, 706.02(b) and 201.15 of the Manual of Patent Examining Procedure, M.P.E.P. §§ 2136.03, 706.02(b) and 201.15 (Rev. 2, May 2004), Itoh may be precluded from being used as a ground for rejection if Applicant submits an appropriate English translation of Korean Patent Application No. 2002-75870 ("870 application"). Accordingly, Applicant files herewith an English translation of the certified copy of the '870 application and a statement that the translation is accurate.

Therefore, Applicant submits that because the foreign priority date of the '870 application (December 2, 2002) is prior to the effective date of Itoh (September 5, 2003), Itoh cannot be used as a reference under section 102(e).

Accordingly, Applicant respectfully submits that claims 1-4, 10-20 and 23-26 are not anticipated by Itoh.

Therefore, Applicant respectfully requests that the Examiner withdraw the rejection of claims 1-4, 10-20 and 23-26 under 35 U.S.C. § 102(e).

Claims 7, 22 and 29

Reconsideration is respectfully requested of the rejections of claims 7, 22 and 29 under 35 U.S.C. § 103(a) as being unpatentable over Itoh in view of U.S. Patent No. 6,567,139 to Huang.

A *prima facie* case of obviousness can be established only upon showing that all claimed elements are disclosed in the combined references. Itoh was applied in the rejection under §103 of claims 7, 22 and 29. With Itoh removed as a §102(e)/ §103 reference, a *prima facie* case of obviousness under 35 U.S.C. § 103(a) cannot be sustained.

Accordingly, in view of the earlier priority date of the instant application, Applicant respectfully submits that claims 7, 22 and 29 are patentable over the cited references.

Therefore, Applicant respectfully requests that the Examiner withdraw the rejection of claims 7, 22 and 29 under 35 U.S.C. § 103(a).

ALLOWABLE SUBJECT MATTER

Applicant gratefully acknowledges the Examiner's indication that claims 5, 6, 8, 9, 21, 28, 30 and 31 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant reserves the right to rewrite the allowable claims in independent form in a subsequent communication or response.

An early and favorable reconsideration is earnestly solicited. If the Examiner has any further questions or comments, the Examiner may telephone Applicant's Attorney to reach a prompt disposition of this application.

Respectfully submitted,



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